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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,915	02/17/2000	Ronald A. Katz	245/248(6046-101D8)	7611

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REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

EXAMINER

WOO, STELLA L

ART UNIT PAPER NUMBER

2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/505,915

Applicant(s)

KATZ, RONALD A.

Examiner

Stella L. Woo

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2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-23, 25-40, 42-64, 66-116, 121 and 123-205 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 17-23, 25-40, 42-64, 66-116, 121, 123-205 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 18, 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 121 and 123 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement for same reasons given in the last Office action and repeated below. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claims 121 and 123 recite the control system as isolating potential buyers based on price. However, the specification does not describe such isolating of a vendor using price criteria as being performed by the control

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system. On page 8, line 6-8, the specification describes a buyer soliciting proposals for a particular item from vendors qualified for the designated merchandise. On page 12, lines 10-12 describe transmitting buyer requests for proposals only to vendors designated to sell the merchandise. On page 18, lines 2-10 describe regulating communication using merchandise codes which indicate the type of products each vendor is authorized to sell. Applicant has argued that the request form of Figure 9 includes price data. However, the request form is transmitted to vendors who are authorized to sell the designated merchandise, as identified by the merchandise code on the request form. There is no description of the control system isolating or communicating with vendors based on maximum purchase amount or price. It is the vendors which receive the price data on the request form. There is no description of the control system utilizing purchase, cost or price data, as recited in the above-identified claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. (US 4,799,156,

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hereinafter "Shavit") in view of Lockwood (US 5,576,951) for the same reasons given in the last Office action and repeated below.

Shavit discloses an electronic commercial transaction system (interactive market management system) for selectively enabling communication between members of plural groups (buyers 82, suppliers 84, distributors 83, etc.), comprising:

an interface (communications interface 79 permits on-line computer access by remote buyers 82 with market participants, such as sellers 83, 84, 86, 88, 94, 96, etc.; col. 5, line 39.- col. 6, line 51);

an input system (personal computers 62, 64 allow remote buyers to designate the particular goods or service desired via a request for quotation (RFQ); col. 25, lines 28-33; col. 5, lines 43-47; col. 6, lines 39-51);

a memory (system 50 maintains user profiles for every user, col. 9, lines 52-68, and stores and logs every operation for each user ID, col. 11, lines 22-29));

whereby the control system subsequently electronically outputs by electronic mail to an indicated email address for electronic email communication relating to the interested buyer, an indication regarding said area of interest (system 50 provides email messages to each user, including bids in response to requests for particular goods or services input by the user, promotions, and other information of particular interest to buyers; col. 11,

lines 52 – col. 12, line 26; col. 13, lines 25-27; col. 18, lines 44-49; col. 20, lines 2-39).

Shavit differs from the claims in that it does not specify the control system processing the input data to isolate at least one select vendor site from a plurality of vendor sites based on the area of commercial interest designated by the buyer and an indication including select video data presentations. However, Lockwood teaches the desirability of having a central processor 222 select an appropriate vendor-supplied data source associated with the customer's request, col. 18, lines 51-54; col. 19, lines 52-53; col. 20, lines 36-39, for output to the customer as a high-resolution audio-visual presentation; col. 18, lines 9-56; col. 19, lines 13-24, 52-57) such that it would have been obvious to an artisan of ordinary skill to incorporate such vendor selection, as taught by Lockwood, within the system of Shavit in order to provide buyers with a more efficient means of selecting goods and services from a plurality of vendors by providing customized audio/video presentations based on the buyer's area of interest. In this way, the buyer need not manually select each distributor from which information is desired.

Response to Arguments

6. Applicant's arguments filed December 18, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be

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established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Shavit and Lockwood are from the same field of endeavor, that is, electronic commercial transactions systems which provide communication between vendors and buyers. In Shavit, a buyer must specify a particular distributor from a plurality of distributors when transmitting a request. In other words, in Shavit, the buyer's request is restricted to a distributor preselected by the buyer. Lockwood teaches the advantage of having a processor automatically select a vendor from a plurality of vendors based on the buyer's area of interest. It would have been obvious to an artisan of ordinary skill to automate the selection process, as taught by Lockwood, within the system of Shavit, thus, automating the selection process for the buyer as well as selecting from a broader range of vendors.

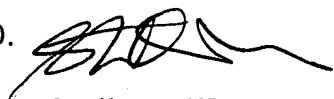
In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only

from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Friday, 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stella L. Woo
Primary Examiner
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